

HIDDEN HARBOR OF LEESBURG ASSOCIATION, INC.  
DECLARATION OF COVENANTS AND RESTRICTIONS

TABLE OF CONTENTS

<u>Page</u>	
ARTICLE 1 - DEFINITIONS	
8	
SECTION 1.	
8	
ARTICLE II - PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO EXISTING PROPERTY	
10	
SECTION 1.	Property Subject to Declaration
10	
SECTION 2.	Additions to Existing Property
10	
SECTION 3.	General Provisions Regarding Additional Property
11	
ARTICLE III - STRUCTURE, POWERS AND DUTIES OF, AND MEMBERSHIP AND VOTING RIGHTS IN, THE ASSOCIATION	
11	
SECTION 1.	Association
11	
SECTION 2.	Membership
12	
SECTION 3.	Voting Rights
12	
SECTION 4.	Duties of the Association
14	
SECTION 5.	Powers and Authority of the Association
15	
ARTICLE IV - PROPERTY RIGHTS IN THE COMMON PROPERTIES	
17	

SECTION 1.	Members' Easements of Enjoyment
17	
SECTION 2.	Title to Common Properties
17	
SECTION 3.	Extent of Members' Easements
19	
SECTION 4.	Phase of Development in Which Common Property Located Not Controlling as to Use
19	
SECTION 5.	Easement Reserved Unto Developer Over Lots and Common Property
19	
SECTION 6.	Transfer of Easement
20	
SECTION 7.	Encroachments on Lots or Common or Limited Properties
20	
SECTION 8.	Beneficiaries of Easements, Rights and Privileges
21	
SECTION 9.	Easement for Police and Fire Protection, etc.
21	

#### ARTICLE V - PROPERTY RIGHTS IN THE LIMITED COMMON PROPERTIES

21

SECTION 1.	Title to Limited Common Property
21	
SECTION 2.	Extent of Members' Easements
22	
SECTION 3.	Sub-Association
22	
SECTION 4.	Insurance on Limited Common Areas
23	

#### ARTICLE VI - SEWER PLANT

23

SECTION 1.	Property Subject to Easement
23	
SECTION 2.	Termination of Easement
24	

## ARTICLE VII - COVENANT FOR MAINTENANCE ASSESSMENTS

25

SECTION 1.           Creation of the Lien and Personal Obligation of Assessments

25

SECTION 2.           Purpose of Assessments

26

SECTION 3.           Annual Assessments

27

SECTION 4.           Special and Utility Assessments

27

SECTION 5.           Date of Commencement of Annual Assessments;  
Due Dates

28

SECTION 6.           Quorum for any Action Authorized Under  
Sections 3 and 4

28

SECTION 7.           Certificate of Payment

29

SECTION 8.           Effect of Non-Payment of Assessment

29

SECTION 9.           Subordination of the Lien to Mortgages

29

## ARTICLE VIII - ARCHITECTURAL CONTROL

29

SECTION 1.           Subdivision Architectural Control

29

SECTION 2.           Enforcement of Planning Criteria

31

SECTION 3.           Exemption for Developer

31

SECTION 4.           Approval by Sub-Division

31

## ARTICLE IX - EXTERIOR MAINTENANCE

31

SECTION 1.           Exterior Maintenance

31

SECTION 2.           Assessment of Cost

32

SECTION 3.           Access at Reasonable Hours

32

SECTION 4.	Insurance on Common Areas
32	

## ARTICLE X - RESTRICTIVE COVENANTS

33

SECTION 1.	Land Use
33	
SECTION 2.	Water and Sewage Facilities
33	
SECTION 3.	Landscaping
33	
SECTION 4.	Nuisances
33	
SECTION 5.	Rules and Regulations
33	
SECTION 6.	Animals
33	
SECTION 7.	Clotheslines
34	
SECTION 8.	Garbage and Trash
34	
SECTION 9.	Trailers and Commercial Vehicles
34	
SECTION 10.	Storage Receptacles
34	
SECTION 11.	Vehicles and Repair
34	
SECTION 12.	Sight Distance at Intersections
34	
SECTION 13.	Temporary Structures
34	
SECTION 14.	Planting and Removal of Trees, etc.
35	
SECTION 15.	Play Structures and Yard Accessories
35	
SECTION 16.	Signs
35	
SECTION 17.	Window Air-Conditioning Units
35	
SECTION 18.	Garages
35	
SECTION 19.	Dwelling Size and Occupancy
35	
SECTION 20.	Lot Size
36	

SECTION 21.	Maintenance of Protective Screening
36	
SECTION 22.	Drainage Structures
36	
SECTION 23.	Exterior Window Treatment
36	
SECTION 24.	Antennas
36	
SECTION 25.	Outdoor Lighting
36	
SECTION 26.	Fences
36	
SECTION 27.	Stormwater Management System Maintenance
37	

#### ARTICLE XI - PARTY WALLS OR PARTY FENCES

38

SECTION 1.	General Rules of Law to Apply
38	
SECTION 2.	Sharing of Repair and Maintenance
39	
SECTION 3.	Destruction by Fire or Other Casualty
39	
SECTION 4.	Weatherproofing
39	
SECTION 5.	Right to Contribution Runs with Land
39	
SECTION 6.	Arbitration
39	

#### ARTICLE XII - INSURANCE AS TO TOWNHOMES

40

SECTION 1.	Obligation to Purchase
40	
SECTION 2.	Sub-Association May Acquire Insurance
40	
SECTION 3.	Payment of Premiums
40	
SECTION 4.	Repair or Replacement of Damaged or Destroyed Property
40	

ARTICLE XIII - AMENDMENT BY DEVELOPER

41

ARTICLE XIV - ADDITIONAL COVENANTS AND RESTRICTIONS

41

ARTICLE XV - AMENDMENT

42

ARTICLE XVI - DURATION AND TERMINATION

42

SECTION 1. Duration

42

SECTION 2. Disposition of Assets upon Dissolution of  
Association or Sub-Association

43

ARTICLE XVII - RECIPROCAL EASEMENT FOR ENCROACHMENTS

43

SECTION 1. Encroachments

43

SECTION 2. Maintenance Easement

43

ARTICLE XVIII - ENFORCEABILITY

44

SECTION 1.

44

SECTION 2.

44

SECTION 3.

44

HIDDEN HARBOR OF LEESBURG ASSOCIATION, INC.

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by HIDDEN HARBOR OF LEESBURG ASSOCIATION, INC., a Florida corporation, hereinafter referred to as the "Developer",

WITNESSETH:

WHEREAS, Developer is the owner of the following described real property situate, lying and being in Lake County, Florida, to wit:

All that certain real property described in the Plat of HIDDEN HARBOR, according to the plat thereof as recorded in Plat Book \_\_\_\_\_, Pages \_\_\_\_\_, of the Public Records of Lake County, Florida, and and as further described on page 37 hereinafter, and,

WHEREAS, the above described real property shall hereinafter be referred to as the "Existing Property", and

WHEREAS, Developer owns or may acquire title to additional real property adjacent to and surrounding the Existing Property, which real property may be incorporated into the Existing Property by the Developer, and

WHEREAS, it is contemplated that real property classified as Existing Property and Additions to Existing Property be developed into townhome dwellings in a residential community with streets, street lights, open spaces, green belts, marina and clubhouse, and such other common facilities for the benefit of the said community as may be specifically designated on the plat of the Existing Property or any plat of Additions to Existing Property, and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said streets, street lights, open spaces, green belts, marina and clubhouse, and other common facilities as may be specifically designated on the plats of the Existing Property and Additions to Existing Property, and to this end, desires to subject the Existing Property and the Additions to Existing Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which shall be binding upon and run with the title to the said lands, and is and are for the benefit of the Existing Property and the Additions to Existing Property and each Owner thereof, and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create a non-profit corporation and/or certain sub-corporations to which should be conveyed title and delegated and assigned the powers of maintaining and administering the community properties and facilities,

administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created, and

WHEREAS, Developer shall incorporate under the laws of the State of Florida, as a non-profit corporation, HIDDEN HARBOR OF LEESBURG ASSOCIATION, INC., for the purpose of exercising the powers and functions aforesaid and as hereinafter set forth.

NOW, THEREFORE, Developer, for itself and its successors and assigns, declares that the Existing Property and any Additions to Existing Property, are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

## ARTICLE I

### DEFINITIONS

SECTION 1. The following words when used in this Declaration or any supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- A. "Association" shall mean and refer to HIDDEN HARBOR OF LEESBURG ASSOCIATION, INC.
- B. "Existing Property" shall mean and refer to all that certain real property described on the Plat of HIDDEN HARBOR TOWNHOMES, LLC, according to the plat thereof as recorded in Plat Book \_\_\_\_\_, Pages \_\_\_\_\_, inclusive of the Public Records of Lake County, Florida, and as further described on page 37 hereinafter.
- C. "Subject Property" shall mean and refer to Existing Property, as hereinabove defined.
- D. "Additions to Existing Property" shall mean and refer to real property other than the Existing Property which becomes subject to this Declaration or any Supplemental Declaration under the provisions of ARTICLE II hereof.
- E. "Common Property or Properties" shall mean and refer to those areas of land, open spaces, green belts, and all streets located thereon, shown on any recorded subdivision plat of the Existing Property or Additions to Existing Property and intended to be devoted to the common use and enjoyment of the Owners of all Lots in the Existing Property and Additions to Existing Property. All streets depicted on any plat of Existing Property or Additions to Existing Property shall be included in the definition of "Common Property or Properties".
- F. "Limited Common Property or Properties" shall mean and refer to those areas



of land and to those facilities which are encompassed by and designated as Limited Common Property on the recorded plat of any Additions to Existing Property to be developed as a townhome community, which said lands or facilities shall and are hereby declared, subject to the limitations hereinafter set forth, to be devoted to the exclusive use and enjoyment of the Owners of the Lots encompassed within the said plat.

- G. "Lot" shall mean and refer to any plot of land set aside for purposes of improvement as a residential homesite, intended to be subject to exclusive ownership and possession, and shown upon any recorded subdivision plat of the Existing Property or any Addition to Existing Property.
- H. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is situated upon the Existing Property or any Additions to Existing Property, including the Developer with respect to an unsold Lot; but, notwithstanding any applicable theory of the law of mortgages, Owner shall not mean or refer to any mortgagee of Lots unless and until such mortgagee has acquired title pursuant to foreclosure or an y proceeding in lieu of foreclosure. Every Owner shall be treated for all purposes as a single Owner for each Lot held, irrespective of whether such ownership is joint, in common or tenancy by the entirety.
- I. "Member" shall mean and refer to each Owner, or his or her spouse, who is a member of the Association as provided in ARTICLE III, SECTION 2, hereof, and also to each Owner which may also be a member of a Sub-Association created pursuant to the terms of any Supplemental Declaration.
- J. "Sub-Association" shall mean and refer to any community association established pursuant to SECTION 3 of ARTICLE V of this Declaration for the purpose of owning, operating and maintaining Limited Common Properties and attending to the affairs and assessments unique to such townhome development containing such properties and incident to which the Sub-Association was created.
- K. "Developer" shall mean and refer to SV Land Developers, Inc., a Florida corporation, and its successors and assigns.
- L. "Party Wall" shall mean and refer to the entire wall, from front to rear, all or a portion of which is used for support and each adjoining property, situate or intended to be situate on the boundary line between adjoining properties.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS TO EXISTING PROPERTY

SECTION 1. Property Subject to Declaration. The Subject Property and all Additions to Existing Property, as heretofore defined, are and shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

SECTION 2. Additions to Existing Property. Additional land may become subject to this Declaration as follows:

- A. Recordation of Additional Declarations. Additional land may become subject to this Declaration by recordation of additional Declarations containing essentially the same substance as the instant Declaration, in the sole discretion of Developer. Subject to the right of Developer to establish such Sub-Associations as Developer may deem appropriate, as set forth in ARTICLE V, SECTION 3, any subsequent Declarations of Covenants and Restrictions shall interlock all rights of Members of the Association to the end that all rights resulting to Members of the Association shall be uniform as between all phases of HIDDEN HARBOR. In the event Developer does establish a Sub-Association with respect to any phase or phases of HIDDEN HARBOR, such Sub-Association shall be established pursuant to the terms of the appropriate Supplemental Declaration and the Owners of Lots in the phase affected by the Supplemental Declaration shall be Members of both the Association and the Sub-Association.
- B. Additions in Accordance With Developer's Plan of Development. The Developer, its successors and assigns, shall have the right but not the obligation to bring within the scheme of this Declaration as Additions to Existing Property additional adjacent properties in future phases of the development, which additional properties include real property which Developer presently owns and real property to which Developer may hereafter acquire title.

The additions authorized under this and the preceding subsection shall be made by filing of record a Supplemental Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such Addition to Existing Property.

Such Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration within

the Existing Property.

- C. Mergers. Upon a merger or consolidation of the Association and/or any Sub-Association with another association, as provided in their Articles of Incorporation, the properties, rights and obligations of each may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association and/or any Sub-Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration and any Supplemental Declaration within the Existing Property and the Additions to Existing Property, together with the covenants and restrictions established upon any other properties, as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration or any Supplemental Declaration within the Existing Property or Additions to Existing Property, except as hereinafter provided.

SECTION 3. General Provisions Regarding Additional Property. Regardless of the above method used to include additional property within the jurisdiction of this or any Supplemental Declaration, no addition shall revoke or diminish the rights of the Owners of Existing Property or Additions to Existing Property to the utilization of the Common Properties or Limited Common Properties as established hereunder or as established under the terms of any Supplemental Declaration, except to grant to the Owners of the properties being added the right to use the Common Properties or the Limited Common Properties and to proportionately change voting rights and assessments.

### ARTICLE III

#### STRUCTURE, POWERS AND DUTIES OF, AND MEMBERSHIP AND VOTING RIGHTS IN, THE ASSOCIATION

SECTION 1. Association. The Association shall be a non-profit corporation charged with the duties and vested with the powers prescribed by law and set forth in the Articles of Incorporation, the By-Laws and this Declaration. Copies of the Association Articles of Incorporation and By-Laws are attached hereto as Exhibits "A" and "B", respectively, and are incorporated herein by this reference. Neither the Articles of Incorporation nor the By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The officers and directors of the Association shall be required to be either (1) Members of the Association, or (2) officers, directors, agents, representatives or employees of the Developer. A Board of Directors of the Association, and such officers as the Board may elect or appoint, shall conduct the affairs of the Association in accordance with the Declaration and the Association Articles of Incorporation and By-Laws. Anything in this or any Supplemental Declaration, the Association and/or any Sub-Association Articles of

Incorporation or By-Laws to the contrary notwithstanding, Developer shall be entitled to elect to the Board of Directors of the Association and each Sub-Association from time to time in existence a majority of the members thereof until such time as Developer has sold ninety-five percent (95%) of the Lots within both the Existing Property and all potential Additions to Existing Property. Twelve Months after the entire project is completed and all units are sold, Developer shall have no members on the Board of Directors.

Regardless of whether majority control of the Association or any Sub-Association may have been relinquished by Developer pursuant to the requirements of the foregoing paragraph, Developer shall be entitled to elect to the Board of Directors of any Sub-Association created incident to a new phase, after such relinquishment of control of the Association or any Sub-Association theretofore created, a majority of Directors until such time as ninety-five percent (95%) of the Lots in such new phase have been sold.

For the purposes hereof, in computing the number of Lots owned by Developer from time to time, any unplatted land now or hereafter owned by Developer and lying adjacent to the Existing Property or Additions to Existing Property, shall be considered to contain the maximum number of Lots allowable under the density provisions of the applicable zoning ordinance, as such provisions exist at the time of such computation.

SECTION 2.           Membership. Every person or entity including spouses of such person or beneficiary of such entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by this Association shall be a Member of the Association for so long as said Member shall own any said Lot, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be a Member.

The Association membership of each Owner shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

SECTION 3.           Voting Rights. The Association shall have two (2) classes of voting membership:

Class A.       Class A Members shall be all those Owners as defined in ARTICLE I, with the exception of Developer. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required by membership by SECTION 2. When more than one person holds such interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B.       Class B Member shall be Developer. The Class B Member shall have the following votes, to-wit:

        A. Five (5) votes for each Lot owned by Developer.

The Class B Membership shall cease and become converted to Class A Membership and entitled to vote as such on the happening of any of the following events, whichever occurs earlier:

- A. When the total votes outstanding in the Class A Membership equals or exceeds the total votes outstanding in the Class B Membership; or
- B. At the expiration of ten (10) years after the date of recording of the Declaration; provided, however, that if a Supplemental Declaration is recorded annexing Additions to Existing Property pursuant to ARTICLE II of this Declaration at any time or times prior to expiration of said ten (10) year period (as the same may have been extended by the filing of any Supplemental Declaration) such period shall be extended each time until the expiration of five (5) years from the date of recording of the last such Supplemental Declaration.

From and after the happening of these events, whichever occurs earlier, the Class B Member shall be deemed to be a Class A Member, entitled to one (1) vote for each Lot in which it holds the interests required for membership under SECTION 2.

Anything in this Declaration, the Association Articles of Incorporation or By-Laws to the contrary notwithstanding, and for so long as Developer is the Owner of five percent (5%) or more of the Lots developed or intended to be developed within the Existing Property and all future Additions to Existing Property, no vote, decision, or action which requires an approval or a vote of two-thirds (2/3) or more of the Members of the Association voting on said matter, irrespective of class, shall be effective or implemented until Developer has approved of or consented to same in writing directed to the Board of Directors of the Association. For the purposes of this paragraph, in computing the number of Lots owned by Developer from time to time, any unplatted land now or hereinafter owned by Developer and lying adjacent to the Existing Property or Additions to Existing Property, shall be considered to contain the maximum number of Lots allowable under the density provisions of the applicable zoning ordinance, as such provisions exist at the time of such computation.

The vote or votes for each Lot must be cast as a single vote and fractional votes shall not be allowed. In the event that joint or multiple Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners cast a vote representing a certain Lot, it shall thereafter be conclusively presumed for all purposes that he/she or they were acting with the authority and consent of all other Owners of the same Lot. In the event more than one vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

In the event that more than one person shall at any time be the Owner of any Lot, all such persons shall be Members and the vote for each such Lot shall, subject to the provisions of the foregoing paragraph, be exercised as such persons among them-selves shall determine. In no event shall more than one (1) Class A vote be cast with respect to any Lot for purposes of determining the votes allowed under this Article, no tenant or lessee of a Lot shall be entitled to any voting rights in the Association.

SECTION 4. Duties of the Association. The Association shall, in addition to such obligations, duties and functions as are assigned to it by other provisions of this Declaration, have the obligations, duties and functions (subject to the provisions of this Declaration), to do and perform each and every of the following for the benefit of the Owners and for the maintenance, administration and improvement of the Subject, Existing Property and Additions to Existing Property:

- A. Annexed Lands. Accept as part of the development all real estate annexed pursuant to ARTICLE II of this Declaration, and accept all Owners thereof as Members of the Association as are subject to the membership requirements set forth herein and in the By-Laws.
- B. Enforcement. To take such action, whether or not expressly authorized herein or in any governing instrument, as may be reasonably necessary to enforce the restrictions, limitations, covenants, affirmative obligations, conditions and other provisions of this Declaration, and of the Articles of Incorporation and By-Laws.
- C. Operation and Maintenance of Common Property. To own, operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Property, together with all easements for operation and maintenance purposes and for the benefit of the Association or its Members over and within the Common Properties; to keep all improvements of whatever kind and for whatever purpose from time to time located thereon in good order, condition and repair; and to maintain any parking areas and streets free and clear from obstructions and in a safe condition for vehicular use at all times. The maintenance and repair of the clubhouse, marina, and all streets lying within the Existing Property and Additions to Existing Property, to the extent that such streets have not theretofore been dedicated to a political subdivision or public authority pursuant to the terms of this Declaration, shall be the responsibility of the Association.
- D. Water and Other Utilities. Acquire, provide and/or pay for water, sewer, garbage disposal, electrical, telephone and gas, and any other necessary utility services for the Common Properties.

- E. Sewer and Water Utilities. Water & Sewer and Lift Station shall be operated & managed and owned by the City of Leesburg.
- F. Taxes and Assessments. To pay all real and personal property taxes and assessments (if any) separately levied upon or assessed against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring the payment is posted prior to the sale or other disposition of any property to satisfy the payment of such taxes. It is the intent of this Declaration that, inasmuch as the interest of each Owner to use and enjoy the Common Properties appurtenant to such Owner's Lot constitutes an interest in real property on a proportionate basis appurtenant to each Lot, the value of the interest of each Owner in such Common Property shall be included in the assessment for each Lot and any assessment directly against such Common Properties should be of a nominal nature reflecting that the full value of the same should be included in the several assessments of the various Lots.
- G. Dedication for Public Use. Upon being directed from time to time by Developer to do so prior to relinquishment of control of the Association by the Developer, and after such relinquishment of control, upon the approval of two-thirds (2/3) of those Owners voting on such matters at a meeting duly called for that purpose, to promptly dedicate such streets, roads and drives and such water, sewer or other utility lines or facilities and appropriate easements as may be specified by Developer or Association as aforesaid to such municipalities, utility companies, political subdivisions, public authorities or similar agencies or bodies as may be designated by Developer or the Association as aforesaid.
- H. Insurance. To obtain and maintain insurance as provided for by the By-Laws or this Declaration.
- I. Rule Making. To make, establish, promulgate, amend or repeal any rules and regulations as may be deemed necessary by the Association.
- J. Enforcement of Restrictions and Rules. To perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary or appropriate to enforce or effectuate any of the provisions of this Declaration and the rules and regulations of the Association.

SECTION 5. Powers and Authority of the Association. The Association shall have all the powers of a non-profit corporation organized under the laws of the State of Florida, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles of Incorporation, the By-Laws, or this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration,

the Articles of Incorporation and the By-Laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association including the following which are listed without intent to limit the foregoing articulation:

- A. Assessments. To levy assessments on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.
- B. Right of Enforcement. In its own name, on its own behalf or behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of any provision of this Declaration, the rules and regulations promulgated by the Association, the Articles of Incorporation or the By-Laws, and to enforce, by mandatory injunction or otherwise, all of the provisions thereof.
- C. Easements and Rights-of-Way. To grant and convey to any third party easements and rights-of-way in, on, over and under the Common Properties and any private streets located thereon for the purposes of constructing, erecting, operating or maintaining thereon, therein or thereunder (1) overhead or underground lines, cables, wires, conduits or other devices for the transmission of electricity and for lighting, heating, power, telephone, community television, radio and audio and antenna facilities and for other appropriate purposes, (2) public sewers, storm water drains and pipes, water systems, sprinkler systems, water, heating and gas lines or pipes, and (3) any similar public or quasi-public improvements or facilities.
- D. Employment of Manager and Employees. To employ the services of any person or corporation as manager, together with employees, to manage, conduct and perform the business, obligations and duties of the Association as may be directed by the Board and to enter into the contracts for such purpose. Such manager and employees shall have the right to entrance and exit over such portions of the development as may be reasonably necessary for the purpose of performing such business, duties and obligations.
- E. Right of Entry. Without liability to any Owner, to cause its agents, independent contractors and employees, after notice, to enter upon any Lot or the exterior of any residence for the purpose of enforcing any and all the provisions of ARTICLE IX of this Declaration, for the purpose of maintaining and repairing such Lot or residence, if for any reason whatsoever the Owner thereof fails to maintain it in good condition and repair and so as to present an attractive exterior appearance as required by ARTICLE IX, or as reasonably required to promote or protect the general health, safety and welfare of the residents and the users of the development properties.



- F. Maintenance and Repair Contracts. To contract and pay for, or otherwise provide for, the maintenance, restoration and repair of all improvements of whatsoever kind and for whatever purpose from time to time, located upon or within the Common Properties.
- G. Insurance. To obtain, maintain, and pay for such insurance policies or bonds, whether or not required by any provision of the Declaration or the By-Laws, as the Association may deem to be appropriate for the protection or benefit of the Association, the members of the Board, the members of the ARB, Owners, their tenants or guests, including but not by way of limitation, fire and extended coverage insurance covering the Common Properties, liability insurance, war risk insurance, boiler insurance, workers' compensation insurance, malicious mischief insurance, automobile non-ownership insurance, and performance fidelity bonds.
- H. Utility Service. To contract and pay for, or otherwise apply for, any necessary utility services, including but without limitation, water, sewer, garbage, electrical, telephone and gas services for the benefit of the Association.
- I. Professional Services. To contract and pay for, or otherwise provide for, any necessary services of architects, engineers, attorneys, certified public accountants, and such other professional and non-professional services as the Association deems necessary.
- J. Subdivision Sewer and Water Utilities. To contract and pay for, or otherwise provide for any necessary services, material equipment and labor for the operations and maintenance of the sewer plant, water supply, and water treatment, as provided for in ARTICLE VI herein, unless provided by the City of Leesburg.
- K. Street Maintenance. To contract and pay for, or otherwise provide for, the construction, reconstruction, repair replacement or refinishing of any streets, roads, drives, parking areas or other paved areas upon any portion of the development not dedicated to any governmental unit.
- L. Maintenance of Road Medians. To contract and pay for the maintenance of landscaping of all medians within roadways or right-of-ways within the Existing Property or Additions to Existing Property, whether or not same have been dedicated to a governmental unit or public authority.
- M. Protective Services. To contract and pay for, or otherwise provide for, fire, security and other such protective services as the Association shall from time to time deem appropriate for the benefit of the development, the Owners, their tenants and guests.

- N. General Contracts. To contract and pay for, or otherwise provide, such materials, supplies, furniture, equipment and labor as and to the extent the Association deems necessary.
- O. Liens. To pay and to discharge any and all liens from time to time placed or imposed upon any Common Property on account of any work done or performed by or on behalf of the Association in the fulfillment of any of its obligations and duties of ownership, maintenance, repair, operation or administration.

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE COMMON PROPERTIES

SECTION 1.       Members' Easements of Enjoyment. Subject to the provisions of this Article, every Member of the Association shall have a non-exclusive right, license, privilege and easement of use and enjoyment in and to the Common Properties of all phases of HIDDEN HARBOR and such rights shall be appurtenant to and shall include, but not be limited to, the following:

- A. Right-of-way for entrance and exit by vehicles or on foot, in, through, over, under and across the streets, roads and walks in the Common Properties for all lawful purposes; and
- B. Rights to connect with, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of the Common Properties; and
- C. Rights to use and enjoy the Common Properties for recreational and any other purpose not inconsistent with this Declaration, any applicable Supplementary Declaration, or the By-Laws and rules and regulations of the Association.

SECTION 2.       Title to Common Properties. Developer may retain the legal title to all or any portion or portions of the Common Properties until such time as it has completed improvements thereon and until such time as, in the opinion of the Developer, the Association is able to maintain the same. Developer may convey or turn over certain items of the Common properties and retain others. Notwithstanding any provision herein, Developer hereby covenants, for itself, its successors and assigns, that it shall convey to the Association all Common Properties located within the Existing Property and Additions to Existing Property when Developer has legally conveyed to Owners ninety-five percent (95%) of the Lots within the general plan of Development. The conveyance of the Common Properties to the Association shall be deemed to contain the following covenant which shall run with the land, whether or not specifically set forth in such conveyance, and shall be binding upon the Association, its successors and assigns for so long as this Declaration or any Supplemental Declaration shall remain unrevoked:

In order to preserve and enhance the property values and amenities of the development, the Common Properties and all facilities now or hereafter built or installed there, shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Properties shall include, but not be limited to, the repair of damage to roadways, walkways, docks, buildings, outdoor lighting, fences and landscape maintenance.

This section shall not be amended to reduce or eliminate the obligation for maintenance and repair of the Common Properties.

SECTION 3. Extent of Members' Easements. The rights and non-exclusive easements of use and enjoyment created hereby shall be subject to the following:

- A. The right of the Association to suspend the enjoyment right of any Member (other than Developer), except as to entrance and exit to and from such Member's Lot through the streets, for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and
- B. The right of Developer prior to relinquishment of control, and of the Association upon the approval of two-thirds (2/3) vote of the Owners voting on such matter at a meeting duly called for that purpose, to grant, dedicate to a governmental agency or a utility, and reserve easements and rights-of-way, in, through, under, over and across the Common Properties (or to direct that the Association grant, dedicate or reserve same after conveyance of the Common Properties to the Association), for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television, telephone, electricity, and other utilities, and for the completion of the development.
- C. The easements and rights of Developer reserved by this Declaration.

SECTION 4. Phase of Development in Which Common Property Located Not Controlling As To Use. The rights of Members of the Association shall in no wise be altered or restricted because of the location of the Common Property (as distinguished from Limited Common Property) in a phase of HIDDEN HARBOR in which such Member does not own a Lot. Designation by Developer of property as Common Property belonging to the Association (or Developer prior to conveyance to the Association) shall result in membership use entitlement, regardless of the phase in which the Lot is acquired or located.

SECTION 5. Easement Reserved Unto Developer Over Lots and Common Property. Developer hereby reserves unto himself, his successors and assigns, all necessary licenses, rights, privileges and easements over, upon, under and across all Common Property and all property lying between the exterior lot lines and setback lines within every Lot, as such setback lines are established by applicable zoning and subdivision laws, shown on any present and future recorded subdivision plat of the

Existing Property or any Additions to Existing Property including, but not be limited to, (1) the right to use the said properties for rights-of-way and easements to erect, install, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains, pipes, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, cable television, sewer, water or other public conveyances or subdivision utilities, (2) the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, convenience, safety and appearance, (3) the right to locate thereon wells and pumping stations, (4) the right and easement of entrance and exit for purposes of development and construction, and (5) such other rights as may be reasonably necessary to complete in an orderly and economic manner the development of all present and future phases of HIDDEN HARBOR; provided, however, that said reservation and right shall not be considered an obligation of Developer to provide or maintain any such utility, development or service. Developer also reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage and other utility lines which may from time to time be in or along the streets and roads, or within the Common Properties, easements, green belts, or property lying between the exterior lot lines of any Lot and the building setback lines therein. Finally, Developer reserves the right to establish and continue to use any sales offices, signs or parking spaces located on the Common Properties in its effort to market homes constructed within the development. The easements and rights-of-way herein reserved shall continue in existence in favor of Developer after conveyance of Common Properties to the Association and any Lot to an Owner until such times as such rights are specifically and expressly relinquished by Developer by reference to this provision. This paragraph may not be amended without the consent of Developer.

SECTION 6.        Transfer of Easement. Developer hereby covenants, for himself, his heirs, successors and assigns, that he will transfer the easements, licenses, rights, and privileges reserved in this Declaration as Developer to the Association as to Common Properties and to the Owners as to their respective Lots upon the sooner of the 1<sup>st</sup> of January in the year 2030, or the sale by Developer of the last Lot held for sale in the ordinary course of business by Developer in any and all phases of the development.

SECTION 7.        Encroachments on Lots or Common or Limited Properties. In the event that any portion of any roadway, walkway, parking area, driveway, water lines, sewer lines, utility lines, sprinkler system, building or any other structure or improvement as originally constructed by Developer encroaches on any Lot or the Common or Limited Common Properties, it shall be deemed that the Owner of such Lot or the Association or Sub-Association has granted a perpetual easement to the Owner of the adjoining Lot or the Association or Sub-Association, as the case may be, for the continuing maintenance and use of such encroaching improvement or structure. The foregoing shall also apply to any replacements of any such improvements or structure if same are constructed in substantial conformity with the original structure or improvement. The foregoing provision shall endure for so long as applicable and shall not be subject to amendment.

SECTION 8. Beneficiaries of Easements, Rights and Privileges. The easements, licenses, rights and privileges established, created and granted by this Declaration shall be for the benefit of and restricted solely to the Association, the Sub-Association, the Developer, and the Owners; and any Owner or the Developer may also grant the benefit of such easement, license, right or privilege to his tenants and guests and their immediate families for the duration of their tenancies or visits, subject, in the case of the Common Properties and Limited Common Properties, to the rules and regulations of the Association and the Sub-Association, respectively, but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public.

SECTION 9. Easement for Police and Fire Protection, etc. The streets, parking areas and roadways reflected on the plats of Existing Property and Additions to Existing Property are not required for public use and will not be dedicated as part of the city, county, state or federal street or highway systems, but shall remain, unless hereafter dedicated in accordance with this Declaration, the sole and exclusive private property of the Developer, Association or Sub-Association, as herein set forth. Developer hereby grants over said streets, parking areas, walkways and roadways to all present and future Owners of Lots in the Existing Property and Additions to Existing Property, their guests, invitees and licensees, and to delivery, pickup, garbage, and fire and police protection services, and other authorities of the law, U. S. Postal Service representatives, meter readers and representatives of utilities, and other persons authorized by Developer, the Association or the Sub-Association to serve the land shown on any plat of the Existing Property or Additions to Existing Property, and to holders of mortgage liens on said lands, the non-exclusive and perpetual right of entrance and exit over and across the Common and Limited Common Properties and the streets and easements thereon.

## ARTICLE V

### PROPERTY RIGHTS IN THE LIMITED COMMON PROPERTIES

SECTION 1. Title to Limited Common Property. Subject to this Declaration and any Supplemental Declaration and the easements reserved thereby in favor of Developer and Owners, in connection with the platting of Existing Property and Additions to Existing Property, the title to any Limited Common Property shall be conveyed to such Sub-Association as shall be established pursuant to SECTION 3 of this Article for the purpose of owning, operating and maintaining the said Limited Common properties. The obligation of the Developer to convey the Limited Common Properties to the Sub-Association shall be limited by the same reservations as to retention of title, and the conveyance to the Sub-Association shall be deemed to contain the same obligation of maintenance, operation and repair on the part of the Sub-Association as are reserved and imposed by SECTION 2 of ARTICLE IV of this Declaration with respect to the Common Properties and the Association.

SECTION 2.           Extent of Members' Easements. Each Owner of a Lot in the phase designated in any Supplemental Declaration as containing Limited Common Property for the exclusive benefit of the Owners of properties in that phase shall have a right and non-exclusive easement of use and enjoyment in and to the said Limited Common Property which right shall be appurtenant to the ownership of such Lot. Notwithstanding anything to the contrary in this Declaration, a person or entity, other than Developer, who is not an Owner of the fee simple or undivided fee simple in and to a Lot encompassed within a particular phase containing areas or properties designated as Limited Common Property shall have no property right or rights of use or enjoyment in and to said Limited Common Property, and membership in the Association shall not be construed as vesting in any Member any property or user right in and to the Limited Common Property unless said Member is also the Owner of the fee simple or undivided fee simple title in and to a Lot encompassed within the phase containing Limited Common Property.

Subject to the rights and easements of Developer and Sub-Association, as hereinafter set forth, Owners of Lots encompassed within phases of HIDDEN HARBOR containing Limited Common Properties shall have such non-exclusive right, license, privilege and easement of use and enjoyment in and to the Limited Common Properties appurtenant to and passing with the title of such Lot as shall be equivalent to the right, license, privilege and easement of the Members of the Association in and to the use and enjoyment of the Common Properties as such right is specifically set forth in SECTION 1 of ARTICLE IV of this Declaration.

The rights and easements of use and enjoyment created hereby shall be subject to the same rights, duties and powers of Developer and the Sub-Association (as the substitute for the Association with respect to the Limited Common Properties) in and to the Limited Common Properties as are provided to or imposed upon the Developer and the Association as to the Common Properties by the provisions of SECTIONS 2, 3, 5, 6 and 9 of ARTICLE IV of this Declaration.

SECTION 3.           Sub-Association. In order to provide for the eventual ownership, care, maintenance and preservation of the Limited Common Property and improvements thereon appurtenant to each phase containing Limited Common Properties, and in order to provide for the care, management, maintenance and preservation of land declared for use as a townhome development and the exteriors of residences and improvements thereon, Developer may cause a Sub-Association to be created similar to the Association, which Sub-Association shall have the same rights and powers with respect to the Limited Common Properties, including the right and power to levy assessments, as are provided for the Association as to Common Properties, and shall be created contemporaneously with the platting of the relevant Addition to Existing Property, and requirements of membership therein and the obligations of the Members thereof shall be set forth in a Supplemental Declaration and in the Articles and By-Laws of the Sub-Association; and the assessment to be levied by the Sub-Association shall be in addition to the assessment levied by the Association.

attributable to them which occurs on, in, or in connection with, the Limited Common Properties. To the extent obtainable, the Board of Directors shall also be required to obtain the following insurance:

- A. Fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring the facilities and lands within the Limited Common Properties in an amount equal to their full replacement values; and
- B. Workers Compensation Insurance. All insurance premiums for Workers Compensation coverage for the Sub-Association shall be paid for by the Sub-Association.

## ARTICLE VI

### SEWER PLANT

SECTION 1. Property Subject to Easement. The Developer, for itself and its successors and assigns, does hereby grant to the Association and to each Owner of each Lot lying within the Existing Property and all Additions to Existing Property, for so long as such Owner shall be the owner of said Lot, as non-exclusive right, license, privilege and easement of use and enjoyment in and to the following tracts of land for the purposes hereinafter set forth, which said lands are described as follows:

#### TRACT "A"

The foregoing Tract "A" is hereby set aside for the purpose of installation, operation and maintenance in perpetuity or until the use thereof is abandoned, such facilities as may be necessary or desirable for providing sewage disposal and treatment services to HIDDEN HARBOR.

The rights herein granted to the Association and the Owners specifically include:

- A. The right for the grantees to patrol, inspect, alter, improve, repair, rebuild, relocate and remove said facilities.
- B. The right for grantees to increase or decrease the capacities of, and to change the quantity and type of, the said facilities.
- C. The right for grantees to clear the easement areas of trees, limbs, undergrowth

SECTION 4.           Insurance on Limited Common Areas. The Board of Directors of the Sub-Association shall maintain public liability insurance, to the extent obtainable, covering the Sub-Association and each Member, Lessee and Occupant and the Managing Agent, if any, against liability for any negligent act of commission or omission.



or other physical objects which endanger or interfere with the safe and efficient installation, operation or maintenance of said facility.

- D. All other rights and privileges reasonably necessary or convenient for grantees' safe and efficient installation, operation and maintenance of said facilities and for the enjoyment and use of said easement for the purposes herein described.

It is the intent of Developer to initially install such facilities as shall be deemed by Developer, in its sole discretion, to be sufficient for the purposes of servicing the sewage and water requirements of the HIDDEN HARBOR development, with said facilities thereafter being maintained, repaired, installed or modified as shall be deemed necessary by the Association and the Owners, at the expense of the Association. The City of Leesburg shall maintain the sewer system.

During the term of this easement, the Association shall provide such public liability insurance as shall be reasonably required by Developer to insulate Developer from liability arising out of the use and enjoyment by the Association and owners pursuant to this easement, and to procure for the benefit of the Association and Owners such fire and extended coverage insurance as shall be reasonably necessary to protect the interests of the Association and Owners in and to the facilities situated on the foregoing three (3) tracts of land.

SECTION 2.            Termination of Easement. Provided that Developer shall first procure and provide to the subdivision substitute sewage disposal and treatment capability, water supply or water treatment capability, at the expense of Developer, which said utilities shall be made available by Developer at a cost not substantially in excess of the then-present cost of utilities available to the Association and Owners, Developer shall be entitled to terminate the easement herein granted with respect to any or all of the foregoing described three (3) tracts of land simultaneously with making available such substitute utility service. All costs of procuring and tying into such substitute utility systems shall be borne by Developer, including any tap-in fees or impact fees incident to such substitute utility service.

Upon termination of the easement herein granted with respect to any or all of the said three (3) tracts, Developer shall be relieved of any or all further liability or responsibility with respect to the provision of facilities for utility purposes. Upon termination of the easement herein granted with respect to any tract, Developer shall be entitled to receive from the Association, as agent for the Association, and all Owners, a recordable release instrument. It shall not be necessary that the Owners independently execute such release to clear title to the said land.

During the term of the easement herein granted, the said utilities and easement areas shall be operated and maintained by the Association for the benefit of the Owners, and no Owner shall have any independent right of access, use or enjoyment except as may be granted to said Owner by the Association; provided, however, that each Lot and residents thereon shall be entitled to tap into and utilize the sewage treatment and disposal, water

supply and water treatment utilities for the limited purpose of serving each said Lot.

## ARTICLE VII

### COVENANT FOR MAINTENANCE ASSESSMENTS

#### SECTION 1. Creation of the Lien and Personal Obligation of Assessments.

- A. Each Owner of any Lot in the Subject, Existing Property or Additions to Existing Property by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, hereby covenants and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, including court costs and reasonable attorneys' fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and attorneys' fees as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.
- B. Notwithstanding the provisions of sub-paragraph (A) above, Developer shall not be subject to assessments as to any acreage which it owns which is not platted, or as to unimproved developed Lots which are platted and owned by Developer.
- C. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:
  1. All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority, and devoted to public use; and
  2. All Common and Limited Common Properties as defined in ARTICLE I, SECTION 1 hereof; and
  3. All properties exempted from taxation by the laws of the State of Florida, upon the terms and to the extent of such legal exemption; and
  4. Those properties owned by Developer as set forth in sub-paragraph (B) hereof; and
  5. Each Lot for so long as the sale by the builder of the new residence located thereon has not yet closed and the said dwelling is unoccupied in all respects; provided, however, that if any Lot is purchased by the Owner

of an adjacent non-exempt Lot for any purpose other than the commencement of construction thereon within sixty (60) days after closing, assessments shall commence to accrue on the said vacant Lot upon the closing of the first sale of the new residence on the adjacent Lot or upon the closing of the purchase of the vacant Lot, whichever shall last occur.

Except as set forth in this sub-paragraph, no land or improvements devoted to dwelling use shall be exempt from assessments, charges or liens.

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Existing Property or Additions to Existing Property and, in particular, for the improvement and maintenance of properties, services and facilities which have been constructed, installed or furnished or may subsequently be constructed, installed or furnished, which are devoted to the purpose and related to the use and enjoyment of the Common Properties situated upon the Existing Property and Additions to Existing Property, including but not limited to:

- A. Payment of operating expense of said Association, including, without limitation, real estate taxes and insurance; and
- B. Lighting, improvement and beautification of access ways and easement areas and the acquisition, maintenance, repair and replacement of directional markers and signs and traffic control devices, and costs of controlling and regulating traffic on the access ways; and
- C. Maintenance, improvement and operation of drainage easements and systems; and
- D. Management, maintenance, improvement and beautification of landscaping on Common Properties, buffer strips, recreation areas and rights-of-way, and the facilities located thereon; and
- E. Garbage collection and trash and rubbish removal, but only when and to the extent specifically authorized by said Association; and
- F. Payment of operating and maintenance expenses of the sewage treatment and disposal, water supply and water treatment utilities; and
- G. Repayment of deficits previously incurred by the Association, if any, in making capital improvements to or upon the Common Properties, and/or in furnishing the services and facilities provided herein to or for the Members of the Association; and
- H. Repair and maintenance of all streets and roadways situate upon the Common Properties which have not been dedicated to any governmental unit; and

- I. Doing any other thing necessary or desirable in the judgment of said Association, to keep the subdivision neat and attractive or to preserve or enhance the value of the properties therein, or to eliminate fire, health or safety hazards, or which, in the judgment of the said Association, may be of general benefit to the Owners or occupants of lands included in the subdivision.

### SECTION 3. Annual Assessments.

- A. Annual Assessments. Commencing on the date set pursuant to SECTION 5 of this Article, there shall be an annual assessment of Two Thousand Forty Dollars (\$2040.00) per Lot, payable in advance, quarterly on January 1, April 1, July 1 and October 1 of each year. This annual assessment shall be prorated in the year of initial purchase of a new residence from date of closing until the next quarterly installment due date. Said assessment shall be paid directly to the Association or, in the event the Association is not yet activated, to Developer. Developer shall account to the Association for any funds expended and shall deliver to the Association the balance of any funds upon activation of the Association.
- B. Increase of Assessments. The Board of Directors of the Association shall annually, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment in advance for each year. Any new annual assessment exceeding one hundred twenty percent (120%) of the assessment for the previous year shall have the approval of two-thirds (2/3) of the votes of Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance of the meeting and which notice shall set forth the purpose of the meeting. Also, the annual assessment may be increase by a two-thirds (2/3) vote of the Members as hereinafter provided.

### SECTION 4. Special and Utility Assessments.

- A. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by SECTION 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Property, including the necessary fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance of the meeting and which notice shall set forth the purpose of the meeting.

- B. Assessments for Utility Services. In addition to the annual assessments and special assessments authorized by SECTION 3 and sub-paragraph (A) of this SECTION 4, respectively, the Association shall levy in each assessment year a utility assessment, the amount of which shall be determined in advance for each year based upon the current maintenance and operation costs and future utility needs of the development, which said assessments shall be allocated among the Owners in such manner and based upon such criteria and factors as shall be determined by the Board of Directors of the Association. The utility assessment shall be due and payable monthly, in advance, or less often at the discretion of the Board of Directors. The utility assessment shall be collectible in the same manner and with the same rights of lien, personal action, and recovery of attorneys' fees and costs, as in the case of delinquent annual or special assessments, as hereinafter provided.

SECTION 5. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence on that date (which shall be the first day of the month) fixed by the Board of Directors of the Association.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable one-half (1/2) on the first day of January of said year and one-half (1/2) on the first day of July of that year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in SECTION 3 hereof as the remaining number of months in that year bears to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the Existing Property at a time other than the beginning of an assessment period.

SECTION 6. Quorum for Any Action Authorized Under SECTIONS 3 and 4. The quorum required for any action authorized by SECTIONS 3 and 4 hereof shall be as follows:

At the first meeting called, as provided in SECTIONS 3 and 4 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth in SECTIONS 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 7. Certificate of Payment. The Association shall upon demand at any time furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

SECTION 8. Effect of Non-Payment of Assessment. If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot with respect to the ownership of which the assessment accrued which shall bind such property in the hands of the then Owner, his heirs, successors, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall also remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date due at the highest rate allowed by law, and the Association may bring an action at law for collection against the Owner personally obligated to pay the same and/or to foreclose the lien against the property, and there shall be added to the amount of such assessment interest, costs of collection and court costs, and reasonable attorneys' fees, including costs and fees on appeal. Reasonable attorneys' fees and costs of collection shall be recoverable whether or not suit is brought.

If it becomes necessary for the Association to file a claim of lien against any Lot, a two-hundred dollar (\$200.00) lien fee may be charged by the Association. Such lien fee shall be added to the unpaid assessment and same shall be secured by the lien hereby created.

SECTION 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any institutional first mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided however, that a sale or transfer of such property pursuant to a decree of foreclosure, or pursuant to other proceeding in lieu of foreclosure, shall not relieve such property from liability for any assessments which thereafter become due, nor from the lien of any subsequent assessment. Said assessment liens, however, shall be subordinate to the lien of any institutional first mortgage or mortgages hereafter placed upon the properties subject to assessment.

## ARTICLE VIII

### ARCHITECTURAL CONTROL

SECTION 1. Subdivision Architectural Control. No building, fence, wall, residence, garage, or any other structural improvement, or change or alteration to the

exterior of existing structures or improvements, or in the landscaping (except landscaping located in a concealed and fenced courtyard or privacy area adjacent to a residence) shall be commenced, erected or maintained, nor shall any exterior addition to or change or alteration thereto be made, until the plans and specifications showing the nature, kind, size, design, shape, finished grade elevation, height, materials, color and locations of the same shall have been submitted, together with a plot plan showing the location relative to boundaries and adjacent improvements of such proposed improvements or changes, shall have been approved in writing as to harmony of exterior design and location in relation to surrounding structures and topography by the Board of Directors of the Association or their appointees acting as an Architectural Review Board, sometimes herein referred to as the "ARB". The provisions of this paragraph shall not apply to Developer.

A. Duties and Powers of ARB. The ARB shall have the following duties and powers:

1. To promulgate from time to time residential planning criteria for the Existing Property and Additions to Existing Property, at the discretion of the ARB. Said planning criteria shall be set forth in writing and made available to all Members and to all prospective Members of the Association. Any planning criteria promulgated by the ARB shall be subject to final approval by the Board of Directors. Said planning criteria may include any and all matters considered appropriate by the ARB not inconsistent with the provisions of this Declaration; and
2. To approve all buildings, fences, walls, pools, or other structures which shall be commenced, erected or maintained upon the Existing Property or Additions to Existing Property and to approve any exterior additions to, or changes or alterations therein, as herein provided, and to approve building plans and specifications and Lot grading and landscaping plans. The conclusion and opinion of the ARB shall be binding. If in its opinion, for any reason, including purely aesthetic reasons, the ARB should determine that said improvement, alteration, etc, is not consistent with the development plan formulated by Developer or the planning criteria for HIDDEN HARBOR or lands contiguous thereto, such alteration or improvement shall not be made.

C. Approval or Disapproval. Two (2) sets of plans, specifications and plot plans shall be submitted to the ARB by the Owner prior to applying for a building permit. The ARB approval or disapproval, as required by this Declaration, shall be in writing and set forth on one copy of the plans, etc., to be returned to the Owner. The remaining copy shall become the property of the ARB. In the event the committee or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it or, in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related criteria shall be deemed to have been fully complied with. Developer, the ARB, any agent or architect thereof, shall not be responsible in

any way for any defects in any plan or specifications submitted, revised or accrued in accordance with the requirements of the ARB, or for any structural or other defect in any work done according to such plans and specifications.

The work approved must be performed substantially in accordance with the plans, specifications and plot plans, as submitted and approved.

SECTION 2. Enforcement of Planning Criteria. The Developer and the Association shall have the right to enforce the provisions hereof and the planning criteria. Should any Owner fail to comply with the requirements hereof, or of the planning criteria after thirty (30) days written notice, the Developer and the Association shall have the right to enter upon the Lot, make such corrections or modifications as are necessary, or remove anything in violation of the provisions hereof or the planning criteria, and charge the cost thereof to the Owner. Should the Developer or the Association be required to enforce the provisions hereof by legal action, the reasonable attorneys' fees and costs incurred, whether or not judicial proceedings are involved, including the attorneys' fees and costs incurred on appeal from judicial proceedings, shall be collectible from the Owner. The Developer and the Association or their agents or employees shall not be liable to the Owner for any trespass or damages or injury to the property or person of the Owner unless caused by negligence.

SECTION 3. Exemption for Developer. Any provisions of this Declaration to the contrary notwithstanding, for so long as Developer, its successors or assigns, shall hold for sale in the ordinary course of business a Lot or residence in the Existing Property or Additions to Existing Property, Developer shall be exempt from the requirements of this ARTICLE VIII with respect to approval by the ARB of any plans and specifications for construction or alteration of any structure or improvement.

SECTION 4. Approval by Sub-Association. As to any Lots subject to the jurisdiction of a Sub-Association, the Owner shall also obtain the approval of the Board of Directors of the Sub-Association as to all matters requiring approval by the ARB.

## ARTICLE IX

### EXTERIOR MAINTENANCE

SECTION 1. Exterior Maintenance. In addition to maintenance upon the Common Properties and rights-of-way, the Association shall have the right to provide exterior maintenance upon any vacant Lot or upon any improved Lot or the exterior of any residence situate thereon; subject, however, to the following provisions. Prior to performing any maintenance on a Lot or exterior of a residence located there, the Board of Directors of the Association shall determine that said property is in need of repair or maintenance and is detracting from the overall appearance of the development. Prior to commencement of any maintenance work on a Lot or residence, the Association must furnish thirty (30) days prior written notice to the Owner at the last address listed in the Association's record for said Owner, notifying the Owner that, unless certain specified



repairs or maintenance are made within said thirty (30) day period, the Association shall procure said repairs and charge same to the Owner. Upon the failure of the Owner to act within said period of time and to thereafter diligently pursue repairs or maintenance, the Association shall have the right to enter in or upon any such Lot, or to hire personnel to do so, to make such necessary repairs or maintenance as is specified in the written notice. In this connection, the Association shall have the right to paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trim and care for trees, shrubs, grass, walks and other landscaping improvements, as well as general lot cleanup, shoreline maintenance, and removal of debris which, in the opinion of the Association, detracts from the overall beauty and setting of the Existing Property and Additions to Existing Property.

SECTION 2.       Assessment of Cost. The cost of such Lot, shoreline or exterior maintenance shall be assessed against the Lot upon which such maintenance is done immediately upon completion and shall be a lien upon the Lot and a personal obligation of the Owner and shall become due and collectible along with costs of collection and attorneys' fees, in the same manner as delinquent assessments, as provided in ARTICLE VII hereof. The Board of Directors of the Association, when establishing the annual assessment against each Lot for any assessment year, may add thereto the estimated cost of the exterior maintenance for that year, but the Board shall thereafter make such adjustment with the Owner as is necessary to reflect the actual cost thereof. The costs incurred by the Association pursuant to this and the foregoing section shall accrue interest at the highest rate allowed by law from date of expenditure to date of payment by the Owner.

SECTION 3.       Access at Reasonable Hours. For the purpose solely of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any residence at reasonable hours on any day except Sundays and holidays (except that in an emergency situation, as determined by the Association, such notice need not be given and entry may be made on any day).

SECTION 4.       Insurance on Common Areas. The Board of Directors shall maintain public liability insurance to the extent obtainable, covering the Association and each Association Member, lessee and occupant and the managing agent, if any, against liability for any negligent act of commission or omission attributable to them which occurs on, in, or with respect the Common Properties. To the extent obtainable, the Board of Directors shall also be required to obtain the following insurance: (1) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring the facilities and lands within the Common Properties in an amount equal to the full replacement value of the improvements, and (2) workers' compensation insurance. All insurance premiums for such coverage shall be paid for by the Association.

## ARTICLE X

### RESTRICTIVE COVENANTS

The Existing Property and Additions to Existing Property shall be subject to the following restrictions, reservations and conditions which shall be binding upon each and every Owner who shall hereafter acquire a Lot or any portion of the Existing Property and Additions to Existing Property and shall be binding upon their respective heirs, personal representatives, successors and assigns, as follows:

SECTION 1. Land Use. No Lot or residence shall be used except for residential purposes and or Residential rental property. No business, trade, profession, or commercial activity or enterprise shall be conducted in the Existing Property or Additions to Existing Property, except by Developer for the purpose of developing and marketing Lots in HIDDEN HARBOR. The Owners of the lots abutting Lake Harris may rent their units as daily or weekly rentals as long as it is not the owner's primary business. No building shall be erected upon any Lot, except by Developer, without prior approval thereof by the ARB as hereinabove set forth.

SECTION 2. Water and Sewage Facilities. No individual water supply system or individual sewage disposal system shall be permitted on any Lot without the approval of the ARB. This section does restrict the right of an Owner to install, operate and maintain a water well on the premises for use only for swimming pools, air conditioning/heating and irrigation purposes.

SECTION 3. Landscaping. Every Lot upon which a residence shall have been constructed shall be fully landscaped within ninety (90) days of occupancy or completion of the residence, whichever shall first occur. Thereafter, said landscaping shall be continuously maintained in good condition. The Owner of each Lot abutting Lake Harris or any canal shall maintain the shoreline of said Lot free of debris and weeds.

SECTION 4. Nuisances. No Nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents, nor shall any improper, offensive or unlawful use be made of any Lot or of the Common Properties or Limited Common Properties, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental bodies having jurisdiction shall be observed.

SECTION 5. Rules and Regulations. Regulations promulgated by the Board of Directors of the Association as to the use and enjoyment of the Common Property and of the Sub-Association as to the use and enjoyment of any Limited Common Property shall be observed by the Members. Copies of such rules and regulations shall be made available to each Member prior to the time same becomes effective.

SECTION 6. Animals. Dogs and cats may be kept as pets only and shall not be held or offered for sale or any commercial use. Dogs and cats which are kept as pets

shall be sheltered inside residential or garage structures; no animal shelter shall be permitted outside. All dogs and cats must be leashed when outside and shall not be permitted to run loose. No other animals, poultry or livestock shall be kept or maintained on any Lot.

SECTION 7. Clotheslines. No garments, laundry, rugs or other articles may be aired or dried on any Lot unless such items are hung on a removable, folding umbrella-type clothesline unit, which unit must be removed before nightfall. This folding umbrella unit shall be placed at the rear of the residence and within the area encompassed by a rearward extension of the side lines of the residence. No other type of clothesline shall be permitted on any Lot.

SECTION 8. Garbage and Trash. No trash, garbage or other waste material or refuse shall be placed or stored on any Lot except in covered sanitary containers. All such sanitary containers must be stored in each home or garage, or within any enclosure designed therefore, which must be at least five (5) feet from any Lot line, and may be put outside the night before collections only.

SECTION 9. Trailers and Commercial Vehicles. No house or travel trailers, trucks, campers, boat trailers, boats, tents, or other similar vehicles, outbuildings or structures shall be placed on the Existing Property or Additions to Existing Property at any time, either temporarily or permanently, except in areas designated by the Board of Directors of the Association. No industrial, commercial or farm equipment or vehicles, including without limitation dump trucks, moving vans, step vans, buses and lowboy trailers, shall be allowed to park or remain on the Existing Property or Additions to Existing Property, except for so long as necessary for use in connection with on-going construction.

SECTION 10. Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view and same may be installed only within the main dwelling house, within an accessory building, within a screened area, or buried underground.

SECTION 11. Vehicles and Repair. No inoperative cars, motorcycles, trucks or other types of vehicles shall be allowed to remain either on or adjacent to any Lot for a period in excess of forty-eight (48) hours; provided, however, this provision shall not apply to any such vehicle being kept in an enclosed garage. There shall be no major repairs performed on any motor vehicle on or adjacent to any Lot in the subdivision. All automobiles, trucks, boats, trailers and other vehicles shall be stored and kept in the garage when not in use. On-street parking is prohibited, except in emergencies. All vehicles shall have current license plates.

SECTION 12. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sightlines and elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or, in case of a rounded property corner, from the intersection of the property lines extended. The same sightline

limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sightlines.

SECTION 13. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

SECTION 14. Planting and Removal of Trees, etc. The ARB shall maintain a list of landscaping trees, plants, shrubs, grasses and other landscaping components which shall be considered as approved for use in HIDDEN HARBOR. No other landscaped components may be utilized without the advance written approval of ARB. In reviewing the building plans, the ARB shall take into account the natural landscaping such as trees, shrubs, palmettos, and encourage the builder to incorporate them in his landscaping plan. No tree of four inches (4") in diameter at two feet (2') above natural grade may be cut or removed without approval of the ARB.

SECTION 15. Play Structures and Yard Accessories. All yard accessories and play structures, including basketball backboards and any other fixed games, shall be located at the side or rear of the residential structures, or to the rear of residences on corner Lots, within the set back lines. All such accessories or structures shall be of natural materials and of natural earth tone colors.

SECTION 16. Signs. No signs, advertisements, billboards, solicitation or advertising structures of any kind shall be erected or maintained on any Lot, unless prior written approval of the ARB is obtained; provided, however, one sign containing not in excess of four (4) square feet of surface area on each side (two (2) sides maximum) used solely in connection with the marketing for sale of a Lot and/or residence thereon shall be permitted without prior approval. This section shall not apply to the Developer.

SECTION 17. Window Air-Conditioning Units. No window air-conditioning units shall be permitted on the front of a residence or on a portion of a residence visible from the street.

SECTION 18. Garages. No carports shall be permitted. Each residence shall include an enclosed garage. All garages and garage doors must be maintained in usable condition and all garage doors fronting toward the street shall remain closed at all times with the exception of entrance and exit.

SECTION 19. Dwelling Size and Occupancy. Each residence shall have a minimum living area of 1,200 square feet, exclusive of basements, garages, breezeways, terraces and similar appurtenances. No residence shall be occupied until the construction thereof has been completed in accordance with the plans, specifications and plot plan approval by the ARB.

SECTION 20. Lot Size. The Developer shall have the exclusive right and power to further subdivide or alter, or to consent to the alteration or subdivision of, any existing or future Lot for so long as Developer owns for sale in the ordinary course of business any Lot in the Existing Property or Additions to Existing Property. Thereafter, alteration or re-subdivision of any Lot shall require approval of the Board of Directors of the Association.

SECTION 21. Maintenance of Protective Screening. Any protective screening constructed by Developer allowing exterior Lot lines as a buffer against the encroachment of noise, dust and/or visual pollution, or other adverse influences, shall be maintained by the Owners of such Lots, at such Owner's expense, including the repair and replacement thereof from time to time, for so long as such buffer shall continue necessary by virtue of the continued adverse influence on the adjacent properties, which such necessity shall be determined by the ARB.

SECTION 22. Drainage Structures. No person, without the prior written approval of Developer during control of the Association by Developer and thereafter with the approval of ARB, shall obstruct, alter or in any way modify the method and/or structures of drainage utilized or installed by the Developer from, on and over any Lot, or any Common Property or Limited Common Property, nor shall any person obstruct, alter or in any way modify any drainage swales, devices and/or facilities now or hereafter installed on any Lot by Developer; nor shall any structure be erected, placed or maintained which shall in any way obstruct such drainage devices or facilities or impede their efficient operation.

SECTION 23. Exterior Window Treatment. Window treatments in all residences which are visible to the exterior shall be of a uniform exterior appearance throughout.

SECTION 24. Antennas. No antenna shall be erected on or about any residence or any Lot without the prior written approval of the ARB in accordance with the provisions of ARTICLE VIII hereof.

SECTION 25. Outdoor Lighting. All outdoor lighting shall be so shaded and directed such that the light therefrom is directed to fall only on the same premises where light sources are located.

SECTION 26. Fences. No fence or similar improvement shall be constructed without the prior written approval of the ARB, in accordance with the provisions of ARTICLE VIII of this Declaration. In no event shall such fence, wall or similar structure exceed four feet (4') in height, above existing finished grade, nor shall any such fence, wall or similar structure be constructed any closer to the street than the rear wall of the residence on that same Lot. The ARB shall have the right to further restrict the areas within each Lot where fences, walls or similar structures may be erected, in accordance with ARTICLE VIII.

SECTION 27.            Stormwater Management System Maintenance.

Property Description

ALL OF THE FOLLOWING DESCRIBED PROPERTY LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 25, LAKE COUNTY, FLORIDA:

Parcel 1: Section 11, Township 20 South, Range 24 East lake County, Florida. Beginning at the NE corner of the NE ¼ of the NW ¼ of Section 11, Township 20 South, Range 24 East, Lake county, Florida, run West 1412 feet to the right-of-way of the railroad; thence along the railroad right-of-way, South 26 degrees, 367 feet; thence East 1251 feet; thence North 330 feet to the point of beginning.

Parcel 2: Beginning at the NE corner of the NE ¼ of the NW ¼ of Section 11, Township 20 South, Range 24 East, Lake County, Florida, run thence North 6 chains, thence run West 20 chains; thence South 6 chains; thence East 20 chains to point of beginning.

SUBJECT TO US HIGHWAY 27 RIGHT OF WAY

LESS AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY

A part of Sections 2 and 11, Township 20 South, Range 24 East, Lake County, Florida described as follows; Begin at the intersection of the Easterly right-of-way of U.S. Highway 27 and South line of Lot 24 of Frisch's Subdivision in Section 2, Township 20 South, Range 24 East, Lake County, Florida as recorded in Plat Book 14, Page 33 of the Public Records of Lake County, Florida; run thence Southeasterly along said Easterly right of way of U.S. Highway No. 27 a distance of 725.0 feet; thence East parallel with said South line of Lot 24 of Frisch's Subdivision, 333.11 feet to a point that is 300.00 feet when measured at right angles thereto the Easterly right of way of U.S. Highway No.27; thence Northwesterly parallel with said right-of-way 725.0 feet to the South line of said Lot 24;thence West along said South line of Lot 24 a distance of 333.11 feet to the Point of Beginning.

Definitions

"Surface Water or Stormwater Management System" means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent to reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quality and quantity of discharges.

Duties of Association

The association shall be responsible for maintenance, operation and repair of the surface water or stormwater management system. Maintenance of the surface water or stormwater management system(s) shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the St. Johns River Water Management District. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved in writing by the St. Johns River Water Management District.

Covenant for Maintenance Assessments for Association

Assessments shall also be used for the maintenance and repair of the surface water or

stormwater management systems including but not limited to work within retention areas, drainage structures and drainage easements.

#### Easement for Access and Drainage

The Association shall have perpetual non-exclusive easement over all areas of the surface water or stormwater management system for access to operate, maintain or repair the system. By this easement, the Association shall have the right to enter upon any portion of any lot which is a part of the surface water or stormwater management system, at a reasonable time and in a reasonable manner, to operate, maintain or repair the surface water or stormwater management system as required by the St. Johns River Management District permit. Additionally, the Association shall have a perpetual non-exclusive easement for drainage over the entire surface water or stormwater management system. No person shall alter the drainage flow of the surface water or stormwater management system, including buffer areas or swales, without the prior written approval of the St. Johns River Water Management District.

#### Amendment

Any amendment to the Covenants and Restrictions which alter any provision relating to the surface water or stormwater management system, beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior written approval of the St. Johns River Water Management System.

#### Enforcement

The St. Johns River Water Management District shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in the Covenants and Restrictions which relate to the maintenance, operation and repair of the surface water or stormwater management system.

#### Swale Maintenance (if applicable)

The Developer has constructed a Drainage Swale upon each Lot for the purpose of managing and containing the flow of excess surface water, if any, found upon such lot from time to time. Each lot owner, including builders, shall be responsible for the maintenance, operation and repair of the swales on the lot. Maintenance, operation and repair shall mean the exercise of practices, such as mowing and erosion repair, which allow the swales to provide drainage, water storage, conveyance or other stormwater management capabilities as permitted by the St. Johns River Water Management District. Filling, Excavation, construction of fences or otherwise obstructing the surface water flow in the swales is prohibited. No alteration of the Drainage Swale shall be authorized and any damage to Drainage Swale, whether caused by natural or human induced phenomena, shall be repaired and the Drainage Swale returned to its former condition as soon as possible by the Owner(s) of the Lot (s) upon which the Drainage swale is located.

### ARTICLE XI PARTY WALLS OR PARTY FENCES

SECTION 1. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Article, the general rule of law regarding party walls and

liability for property damage due to negligence or willful acts of omissions shall apply to each party wall or party fence which is built as part of the original construction and any replacement of townhomes upon any Additions to Existing Property.

In the event that any portion of any townhome structure, as originally constructed by Developer, including any party wall or fence, shall protrude over an adjoining Lot, such structure, party wall or fence shall not be deemed to be an encroachment upon the adjoining Lot, and the affected Owner shall neither maintain any action for the removal of a party wall or fence or projection, nor any action for damages. In the event there is a protrusion, it shall be deemed that said affected Owner has granted a perpetual easement to the adjoining Owner for continuing maintenance and use of the projection, party wall or fence. The foregoing shall also apply to any replacements of any structures, party walls or fences if same are constructed in conformance with the original structure, party wall or fence constructed by Developer. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

SECTION 2.        Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or party fence shall be shared equally by the Owners who make use of the wall or fence in proportion to such use.

SECTION 3.        Destruction by Fire or Other Casualty. If a party wall or party fence is destroyed or damaged by fire or other casualty, any Owner who has used the wall or fence must restore it, and if the other Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

SECTION 4.        Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements.

SECTION 5.        Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

SECTION 6.        Arbitration. In the event of any dispute arising concerning a party wall or party fence, or under the provisions of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. The decision of the arbitrators shall not, however, be binding and conclusive upon the parties and any party to the dispute shall thereafter have the right to institute any action or proceeding, at law or equity, which he deems necessary or desirable.



## ARTICLE XII

### INSURANCE AS TO TOWNHOMES

SECTION 1. Obligation to Purchase. Each Owner of a Lot in an Addition to Existing Properties being developed for townhomes having party walls and/or connected exterior roofs shall be required to obtain and maintain adequate insurance of his townhome which shall insure the property for its full replacement value, with no deductions for depreciation, against loss by fire or other hazards. Such insurance shall be sufficient to cover the full replacement value, or for necessary repair or reconstruction work. Such insurance shall be written in the manner designated by the pertinent Sub-Association. Each Owner shall be required to supply the Board of Directors of the pertinent Sub-Association with evidence of insurance coverage on his townhome which complies with the provisions of this Section.

SECTION 2. Sub-Association May Acquire Insurance. If the insurance required under this Article has not otherwise been adequately obtained by each Owner of a townhome, as determined by the Board of Directors of the Sub-Association, then the Board may obtain such insurance coverage. Such insurance shall be sufficient to cover the full replacement cost or necessary repair or reconstruction work. The purpose of such insurance will be to protect, preserve and provide for the continued maintenance and support of separately owned homes which shall include common party walls, connected exterior roofs and/or other parts of the overall structure. Insurance obtained by the Board of Directors shall be written in the name of the Sub-Association as Trustee for the benefit of each Owner.

SECTION 3. Payment of Premiums. Premiums for insurance obtained by the Board of Directors, as provided hereinabove, shall not be a part of the common assessment or expense but shall be an individual assessment assessable against the defaulting Lot and Owner and payable and collectible in accordance with the provisions of this and any Supplemental Declaration as to delinquent assessments.

SECTION 4. Repair or Replacement of Damaged or Destroyed Property. Each townhome Owner shall be required to reconstruct or repair any townhome destroyed by fire or other casualty, whether or not such destruction shall have been an insured loss. Any insurance proceeds arising out of insurance written in the name of the Sub-Association, as trustee, shall be deposited in a bank or other financial institution, subject to withdrawal only by the signature of an agent duly authorized by the Board of Directors of the pertinent Sub-Association. If no repair or rebuilding has been contracted for, or otherwise substantially started by the Owner with the cooperation of the Board of Directors within thirty (30) days of the receipt by the Sub-Association of the insurance proceeds, the Board of Directors shall itself initiate the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the town-home, in a good and workmanlike manner in conformance with the original plans and specifica-

tions. The Board of Directors may advertise for sealed bids from any licensed contractors and may then negotiate with said contractors. The contractor or contractors selected to perform the work shall provide full performance and payment bonds for such repair or rebuilding. In the event the insurance proceeds are insufficient to fully pay the costs of repairing and/or rebuilding the damaged or destroyed portions in a good and workmanlike manner, the Board of Directors of the pertinent Sub-Association shall levy a special assessment against the Owner in whatever amount sufficient to make up the deficiency. If the insurance proceeds exceed the cost of repairing and/or rebuilding, such excess shall be paid over to the respective Owner and/or Owner's mortgagee in such portions as shall be independently determined by those parties.

### ARTICLE XIII

#### AMENDMENT BY DEVELOPER

The Developer reserves and shall have the sole right (1) to amend these covenants and restrictions and any and all covenants and restrictions supplemental hereto for the purpose of curing any ambiguity in or any inconsistency between the provisions contained herein or therein, or between the two, (2) to include in any contract or deed or other instrument hereafter made any additional covenants and restrictions applicable to the said land which do not lower the standards of the covenants and restrictions herein contained or contained in any Supplemental Declaration or instrument, and (3) to release any Lot or residence thereon from any part of the covenants and restrictions contained herein or in any instrument or Declaration supplemental hereto which have been violated if the Developer, in its sole judgment, determines such violation to be a minor or insubstantial violation.

### ARTICLE XIV

#### ADDITIONAL COVENANTS AND RESTRICTIONS

No property Owner, without the prior written approval of Developer for so long as Developer owns any Lot in or portion of the Subject, Existing Property or Additions to Existing Property for the purpose of sale in the ordinary course of business, and thereafter without the prior written approval of the Board of Directors of the Association, may impose any additional covenants or restrictions on any part of the land shown on the plat or plats of the Subject, Existing Property or Additions to Existing Property.

### ARTICLE XV

#### AMENDMENT

Except as to provisions relating to amendments as set forth herein or in any Supplemental Declaration regarding certain specific items and the method of amending or altering same, which is set forth in connection with such particular item, any other provisions, covenants or restrictions set forth herein or in any Supplemental Declaration of

Covenants and Restrictions may be amended in accordance with this provision. The Owners of at least two-thirds (2/3) of the Lots affected by this Declaration or any Supplemental Declaration may change or amend any provision hereof or of any Supplemental Declaration, except as above mentioned, in whole or in part, by executing a written instrument in recordable form setting forth such amendment, or by causing a certified copy of a duly adopted resolution of the Owners to be prepared, and having the same duly recorded in the Public Records of Lake County, Florida. A proposed amendment may be initiated by the Developer, the Association, any Sub-Association, or by petition signed by fifteen percent (15%) of the then Owners of the Lots affected by the Declaration to be amended. A written copy of the proposed amendment shall be furnished to each Owner of a Lot affected by the Declaration to be amended at least ninety (90) days but not more than one hundred twenty (120) days prior to a designated meeting to discuss such particular amendment. Said notification shall contain the time and place of said meeting. The recorded amendment shall contain a recitation that sufficient notice was given as above set forth and said recitation shall be conclusive as to all parties and all parties of any nature whatsoever shall have full right to rely upon said recitation in such recorded amendment. The amendment shall be effective upon recordation among the Public Records of Lake County, Florida. Anything in this Article to the contrary notwithstanding, no Owner shall be entitled to vote as to an amendment to a Supplemental Declaration for a phase of HIDDEN HARBOR not encompassing the Lot owned by Owner. This Declaration shall be considered to encompass all Lots in HIDDEN HARBOR. No Supplemental Declaration may be amended in such a manner as to be inconsistent with this Declaration.

## ARTICLE XVI

### DURATION AND TERMINATION

SECTION 1. Duration. The covenants and restrictions of this Declaration and of each Supplemental Declaration incorporating Additions to Existing Property shall run with and bind the land, and shall inure to the benefit of and be enforceable by Developer, the Association and any Sub-Association, or the Owner of any land subject to this or any Supplemental Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless and until an instrument signed by the then Owners of two-thirds (2/3) of the Lots within the phase for which the relevant Declaration to be terminated has been recorded, agreeing to terminate said covenants and restrictions in whole or in part. Written notice of the proposed agreement shall be sent to every Owner in the affected phase at least ninety (90) days in advance of any action taken.

Notwithstanding the foregoing, the easements, licenses, rights and privileges established and created with respect to the Common Property and Limited Common Property by SECTION 1 of ARTICLE IV and by ARTICLE V shall be perpetual, run with the land

and shall survive any destruction, reconstruction and relocation of the physical structures, unless said provision is abrogated by the unanimous written consent of all the Owners benefited.

SECTION 2.           Disposition of Assets upon Dissolution of Association or Sub-Association. Upon dissolution of the Association or a Sub-Association, the real and personal assets, including the Common Property or Limited Common Property shall be dedicated to an appropriate public agency and/or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association or Sub-Association. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to the purposes as nearly as practicable the same as those to which they were required to be devoted by the Association or Sub-Association. No such disposition of the said properties shall be effective to divest or diminish any right or title to any Member vested in him under the license, covenants and easements of this Declaration, or under subsequently recorded covenants, deeds or other documents applicable to the development, except as may be otherwise provided in this Declaration or said covenants, deeds or other documents, as the case may be, nor shall any other party under any such deeds, covenants or other documents be deprived of any rights thereunder on account of such disposition.

## ARTICLE XVII

### RECIPROCAL EASEMENT FOR ENCROACHMENTS

SECTION 1.           Encroachments. Lots, residences, the Common Property and any Limited Common Property are hereby declared to have an easement over all adjoining Lots, residences, Common Property and Limited Common Property for the purpose of accommodating any encroachments due to engineering errors, errors in original construction, settlement or shifting of a building, any encroachment due to building overhang or projection, or any similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist or for any reconstruction of encroachments if reasonably necessary after fire or other casualty, and the rights and obligations of Owners shall not be altered in any way by said encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of any Owner or Owners if said encroachment occurred due to the willful act or acts with full knowledge of said Owner or Owners.

SECTION 2.           Maintenance Easement. All Lots upon which are constructed townhomes are hereby declared to have a non-exclusive easement appurtenant thereto over and across so much of the adjacent Lots upon which are also constructed townhomes as shall be necessary for the limited purpose of allowing the Owners of the dominant estate access to all portions of their Lots and residences for purposes of maintenance, repair and replacement. Said easement shall be at all times utilized with the utmost consideration of privacy and convenience of the adjoining property Owner, and only during daylight hours, except in emergencies.

ARTICLE XVIII

ENFORCEABILITY

SECTION 1. If any person or entity shall violate or attempt to violate any of these covenants or restrictions, it shall be lawful for Developer or the Association to: (1) prosecute proceedings for the recovery of damages against those so violating or attempting to violate any such covenants or restrictions, or (2) maintain a proceeding in any court of competent jurisdiction against those so violating or attempting to violate any such covenants or restrictions, for the purpose of preventing or enjoining all or any such violations. The remedies contained in this provision shall be construed as cumulative of all other remedies now or hereafter provided by law. The failure of Developer, its successors or assigns, or the Association, to enforce any covenant or restriction or any obligation, right, power, privilege, authority or reservation herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce the same thereafter as to the same breach or violation, or as to any other breach or violation thereof occurring prior to or subsequent thereto.

SECTION 2. The invalidation of any provision or provisions of the covenants and restrictions set forth herein or in any Supplemental Declaration by judgment or court order shall not affect or modify any of the other provisions of said covenants and restrictions which shall remain in full force and effect.

SECTION 3. Any notice required to be sent to any Member or Owner under the provisions of this or any Supplemental Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the record of the Association or Sub-Association at the time of such mailing.

IN WITNESS WHEREOF, the Developer, S & V Land Developers, Inc. has caused these presents to be executed in its name and its seal to be affixed hereto the day and year first above written.

Signed, Sealed and Delivered \_\_\_\_\_ (date)  
in the presence of:

HIDDEN HARBOR OF LEESBURG  
ASSOCIATION, INC.

By: \_\_\_\_\_

(Corporate Seal)

STATE OF FLORIDA       )  
                                  ) SS.  
COUNTY OF LAKE       )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared well known to me to be the \_\_\_\_\_ of SV Land Developers, Inc., and that he acknowledged executing the same on behalf of the corporation in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed hereto is the true seal of said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(Notarial Seal)

\_\_\_\_\_  
Notary Public

My Commission Expires:

JOINDER BY MORTGAGEE

KNOW ALL MEN BY THESE PRESENTS:

THAT, \_\_\_\_\_, the owner and holder of a certain Mortgage encumbering the property which is the subject of the foregoing Declaration, which Mortgage is dated \_\_\_\_\_, and is recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, Public Records of Lake County, Florida, by the execution hereof consents to the placing of the foregoing covenants and restrictions on the said property and further covenants and agrees that the lien of its Mortgage shall be and stand subordinate to such covenants and restrictions as if said covenants and restrictions had been executed and recorded prior to the recording of its Mortgage.

Signed, Sealed and Delivered \_\_\_\_\_ (date)  
in the presence of:

By: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(Corporate Seal)

STATE OF FLORIDA       )  
                                  ) SS.  
COUNTY OF \_\_\_\_\_ )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared \_\_\_\_\_ well known to me to be the \_\_\_\_\_ of \_\_\_\_\_, and that he/she acknowledged executing the same on behalf of the corporation in the presence of two subscribing witnesses freely and voluntarily under the authority duly vested in him/her by said corporation.

WITNESS my hand and official seal in the State and County last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

(Notarial Seal)

Notary Public  
My Commission Expires: